

21 C.J.S. Courts § 146

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Courts

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IV. Terms and Sessions

B. Terms

3. Special or Extraordinary Term

§ 146. Special or extraordinary term, generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  64, 64(1) to 64(6)

Special terms of court are frequently deemed valid and legal in the face of objections to the times when they are held or called. Judges are given authority to call or hold special terms of their courts.

If the authority to call a special term existed, it will be presumed, in the absence of any showing to the contrary, that the term was regularly called and held.¹ The statutorily created rules governing the convening of regular terms of court may be changed by a later legislature, and provisions of general laws relating to the convening of courts generally are invalid when they conflict with a later statute governing the calling of special terms and providing for the repeal of all inconsistent laws.² Special terms of court are generally deemed valid and legal in the face of objections to the times when they are held or called.³

The legislature has power to appoint special terms of courts,⁴ subject to constitutional requirements.⁵ This power may, however, be delegated⁶ to judges without thereby violating constitutional provisions.⁷ Indeed, the power is in fact ordinarily delegated to them.⁸

A special judge may provide for a special term,⁹ and under the laws of some states, which vest a special judge with all the powers of a regular judge, a special judge may call a special term for the trial of the cases that the special judge is designated to try.¹⁰ However, the laws of other states vest authority to call special terms in the regular resident judge either primarily¹¹ or exclusively.¹²

Except in the few situations that statutes impose a mandatory duty to call a special term,¹³ the judge that is vested with authority to call a special term has the discretion whether or not to call it.¹⁴

Contents of order calling special term.

A statute must be complied with that prescribes what an order appointing a special term must contain.¹⁵ The order should recite every fact that the statute requires for calling of the term,¹⁶ but if the statute prescribes no set form to be used by a judge in appointing a special term, then any form suffices that clearly indicates the purpose.¹⁷

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Footnotes

- 1 Ky.—*Philips v. Robinson*, 225 Ky. 682, 9 S.W.2d 995 (1928).
- 2 Tex.—*Hickox v. State*, 95 Tex. Crim. 173, 253 S.W. 823 (1923).
- 3 Tex.—*Mayhew v. State*, 69 Tex. Crim. 187, 155 S.W. 191 (1913).
- During recess of regular term**
Ga.—*Worthington v. State*, 134 Ga. 261, 67 S.E. 805 (1910).
- 4 Ark.—*Bell v. State*, 120 Ark. 530, 180 S.W. 186 (1915).
- 5 Tex.—*Ex parte Collins*, 79 Tex. Crim. 436, 185 S.W. 580 (1916).
- 6 Vt.—*State v. Alfred*, 87 Vt. 157, 88 A. 534 (1913).
- 7 S.C.—*State v. Gossett*, 117 S.C. 76, 108 S.E. 290, 16 A.L.R. 1299 (1921).
- 8 Ga.—*Bloodworth v. State*, 160 Ga. 197, 127 S.E. 458 (1925).
- Tex.—*Brown v. State*, 121 Tex. Crim. 528, 51 S.W.2d 616 (1932).
- 9 Tex.—*McKenzie v. State*, 111 Tex. Crim. 299, 12 S.W.2d 578 (1929).
- 10 Ky.—*Hall v. Eversole's Adm'r*, 251 Ky. 296, 64 S.W.2d 891 (1933).
- 11 Fla.—*State v. Bird*, 99 Fla. 673, 127 So. 331 (1930).
- 12 Tex.—*McAllen v. Raphael*, 96 S.W. 760 (Tex. Civ. App. 1906), writ refused.
- 13 Ark.—*Cain v. Robertson*, 168 Ark. 751, 271 S.W. 336 (1925).
- Ky.—*Lee v. Commonwealth*, 221 Ky. 420, 298 S.W. 1083 (1927).
- 14 Fla.—*State v. Bird*, 99 Fla. 673, 127 So. 331 (1930).
- Tex.—*Perry v. Walston*, 96 S.W.2d 834 (Tex. Civ. App. San Antonio 1936).
- 15 Ky.—*Rooney v. Commonwealth*, 198 Ky. 515, 249 S.W. 763 (1923).
- 16 Ark.—*Reece v. State*, 118 Ark. 310, 176 S.W. 165 (1915).

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W. Va.—[State v. Hoke](#), 76 W. Va. 36, 84 S.E. 1054 (1915).

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